

BEFORE THE ENVIRONMENTAL QUALITY BOARD

COAL-MAC, INC.

Appellant,

v.

Appeal No. _____

**DIRECTORS, DIVISION OF WATER AND
WASTE MANAGEMENT AND DIVISION OF
MINING AND RECLAMATION, DEPARTMENT
OF ENVIRONMENTAL PROTECTION,**

Appellee.

ORDER GRANTING APPELLANT'S MOTION FOR STAY

Pending before this Board is a Motion for Stay filed by Appellant Coal-Mac, Inc. The Appellant's Motion seeks a stay of WVDEP's Order of March 8, 2010 denying Coal-Mac's request to extend the date for complying with selenium limits in Permit No. WV1003763.

Finding it necessary to allow the Appellant the opportunity to properly prepare for and conduct a proper evidentiary hearing on the grounds for appeal set forth in Appellant's Notice of Appeal and Request for Stay, the Board finds it proper to grant the Motion for Stay. The Board finds that to allow the compliance schedule to expire prior to a decision by this Board on the appeal of WVDEP's decision would result in a violation of the due process rights of the Appellant. Therefore, the Board STAYS the effect of the March 8 Order under appeal and STAYS those parts of the Appellant's permit and/or compliance schedule that otherwise impose final selenium effluent limits until further order or final order of this Board.

It is so ORDERED and ENTERED this 9th day of April, 2010.


EDWARD M. SNYDER, CHAIRMAN